

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WEI TANG LU et al.,

Plaintiffs,

VS.

COUNTRYWIDE BANK, N.A. et al.,

Defendants.

2:12-cv-01511-R CJ-CWH

ORDER

Plaintiffs Wei Tang Lu and Feng Ling Situ have sued Defendants in pro se in this Court based upon the foreclosure of their mortgage. The Complaint lists seven causes of action: (1) fraud; (2) Real Estate Settlement Procedures Act (“RESPA”); (3) “fraudulent foreclosure”; (4) Fair Debt Collection Practices Act (“FDCPA”); (5) Truth in Lending Act (“TILA”); (6) “fraudulent assignment”; and (7) “notary fraud.” Pending before the Court is a motion for a preliminary injunction. For the reasons given herein, the Court denies the motion.

First, no Defendant has appeared because Plaintiffs have not properly served any Defendant. The certificates of service adduced appear deficient on their faces in several respects. Plaintiffs have filed into the record copies of return receipts for pieces of mail received by Defendants Mortgage Electronic Registration Systems, Inc. (“MERS”) and “BAC Home Loan” (“BAC”). Plaintiffs apparently mailed a copy of the Summons but not the Complaint (only the Summons is attached to the certificate of service), to these entities at the same address in Simi Valley, California. Plaintiffs’ affidavits of service are signed but undated. The method of

1 service is not indicated on the affidavits. Nor is there any indication that Plaintiffs complied with
2 California Code of Civil Procedure section 415.30, governing service by mail, which requires
3 copies of both a summons and complaint, as well as a form for a defendant to acknowledge
4 receipt. *See* Cal. Code Civ. P. § 415.30. Nor is there any evidence that the present motion was
5 served upon any Defendant.

6 Second, even if Defendants had been served, Plaintiffs do not provide sufficient evidence
7 for the Court to conclude that they are likely to succeed on the merits. There is no evidence
8 adduced of any foreclosure proceedings such as a notice of default or the like.

9 **CONCLUSION**

10 IT IS HEREBY ORDERED that the Motion for Preliminary Injunction (ECF No. 3) is
11 DENIED.

12 IT IS SO ORDERED.

13 Dated this 26th day of November, 2012.

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17 ROBERT C. JONES
18 United States District Judge
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